

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 3169 of 1991

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the Judgment ?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BD MEHTA

VERSUS

STATE BANK OF SAURASHTRA

Appearance:

MR PRAMOD MANKAD for Petitioner

MR AS VAKIL for Respondents No. 1 and 2

CORAM : MR JUSTICE S.K. KESHOTE

Date of Decision : 22/09/1999

C.A.V. JUDGMENT

1. The petitioner, a retired Officer of the respondent- Bank, filed this petition praying for

staying the disciplinary proceedings initiated against him vide chargesheet annexure 'E' pending trial of the criminal case No.15/90 filed against him and pending in the City Sessions Court at Ahmedabad. Second prayer has been made for direction to the respondents to release forthwith all the retirement benefits like provident fund, gratuity and leave encashment due to the petitioner. Further prayer has been made for interim relief.

2. This special civil application has come up for preliminary hearing before this court on 1-5-1991. The matter was admitted and interim relief in terms of para 13(D) only has been granted, which reads as under:

13 (D). pending admission and til final disposal of the petition grant stay as to further proceedings of Departmental disciplinary proceedings initiated in pursuance to the chargesheet at annexure 'E' during the pendency of the Special Criminal Case No.15 of 1990 pending before the City Sessions Court at Ahmedabad.

Subsequently, this order was made absolute, and with a specific order, the rest of the prayers for interim relief were rejected.

3. Learned counsel for the petitioner contended that on selfsame charges which are subject matter of the departmental disciplinary proceedings, the criminal case has been filed against the petitioner and the proceedings of the departmental inquiry are to be stayed.

4. On the other hand, learned counsel for the respondent contended that there cannot be any dispute in the legal proposition that in appropriate case where the departmental disciplinary proceedings and criminal case are there on the selfsame charges, pending trial of the criminal case the departmental disciplinary proceedings may be stayed. The counsel for the respondents

contended that there are very very serious charges of corruption against the petitioner and the criminal case which has been filed in the year 1990, has not been decided so far and there appears to be no justification to continue the petitioner under suspension and deferment of the disciplinary proceedings. It is the case of the respondents that in the form of subsistence allowance, handsome amount of public money is already being paid to the petitioner. Carrying this contention

further, it is submitted that the petitioner is involved in a serious case of fraud of Rs.5.28 lacs of the Bank money. In support of his contentions, he has placed reliance on two decisions of the Apex Court in the case of State of Rajasthan vs. B.K. Meena reported in 1996 (6) SCC 417 and in the case of Captain M. Paul Anthony vs. Bharat Gold Mines Ltd. reported in 1999 (3) SCC 679.

5. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

6. In the criminal case against the petitioner there are serious charges of commission of offences under section 420, 467, 471, 477A read with 120(B) of IPC and section 5 (2) read with section 5(1)(d) of Prevention of Corruption Act, 1947 corresponding to section 13 (2) read with section 13 (1) (d) of Prevention of Corruption Act, 1988. In the criminal case, the chargesheet has already been submitted in the criminal court in the year 1990 which is registered as Special Criminal Case NO.15 of 1990 and the same is pending in the City Sessions Court at Ahmedabad. The petitioner was placed under suspension under the order dated 27th December, 1989. The chargesheet was given to the petitioner for departmental disciplinary inquiry under the memo dated 7th September, 1990. More than nine years have passed but the criminal case in the criminal court is stated to be at the initial stage. It may take long time and for all the time to come, the departmental disciplinary proceedings cannot be kept under stay otherwise the petitioner will get undue benefit for which he ultimately may not be entitled. Keeping a bank employee under suspension for long period is not in the larger interest of both the delinquent employee/officer as well as the Bank. In case he continues under suspension where ultimately he has to be dismissed from services, there is direct loss of the public money, as out of the public money subsistence allowance is to be paid to him. In case ultimately he is exonerated in the departmental inquiry then why he should carry this blot or stigma in the services as well as face the insulting position in the Society.

7. It is true that this court has stayed the departmental inquiry. This writ petition has been filed in the year 1991 and since then more than eight years have already been passed still the trial of the criminal case is not concluded. In the facts of this case, I find sufficient merits in the contention of the learned counsel for the respondents that it is not in the larger

interest of the Bank as well as the petitioner to continue the interim relief which has been granted by this Court in the year 1991. The Bank may be permitted to proceed with the disciplinary proceedings as the criminal court may take many more years to decide the criminal case pending before it.

8. The two decisions of the Apex Court in the cases of State of Rajasthan vs. B.K. Meena and Capt. M Paul Anthony vs. Bharat Gold Mines Ltd. (supra) support the contentions raised by the learned counsel for the respondents. In the facts of this case, I do not find any justification to continue the stay of departmental proceedings initiated against the petitioner. For more than sufficient time, these proceedings remained stayed under the interim relief granted by this Court on 1-5-1991 in favour of the petitioner.

9. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief granted on 1-5-1991 stands vacated. However, in the facts of this case, no order as to costs.

zgs/-